BILL NO. S-91-10-17

SPECIAL ORDINANCE NO. S-252-91

AN ORDINANCE approving **CONTRACT 91-08, WATER MAINTENANCE CUTS** between **DEHNER CONSTRUCTION INC.**, and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Contract **#91-08, WATER MAINTENANCE CUTS** by and between **DEHNER CONSTRUCTION INC.**, and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

the repair of Utility Cuts that were made by the Water Utility;

involving a total cost of Eighty Thousand Nine Hundred Fifty and no/100 Dollars ($81,950.00).

SECTION 2. Prior Approval has been requested from Common Council on **SEPTEMBER 24, 1991.** Two copies of said Contract are on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Councilmember

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay, City Attorney

CONSTRUCTION CONTRACT

Board Order 156-91 **Contract 91-08** **Work Order 64285**

THIS CONTRACT made and entered into in triplicate this 25 day of Sept., 1991, by and between DEHNER CONSTRUCTION INC., herein called **CONTRACTOR**, and the **City of Fort Wayne, Indiana**, an Indiana Municipal Corporation, acting by and through the **Mayor** and the **Board of Public Works and Safety**, herein called **OWNER**;

WITNESSETH, that the **CONTRACTOR** and the **OWNER**, for the considerations hereinafter named, agree as follows:

ARTICLE 1: SCOPE OF WORK

CONTRACTOR shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the following:

TO REPAIR UTILITY CUTS THAT WERE MADE BY THE WATER UTILITY.

All in accordance with the specifications of Contract Number **91-08**, prepared by the Fort Wayne Water Engineering Department, Street Engineering Department, and Right of Way Cut Permit Specifications, and according to the Detailed Specifications and Conditions contained within the Bid Specifications for Contract 91-08.

ARTICLE 2: THE CONTRACT SUM

The owner shall pay **CONTRACTOR** for the performance of the contract, the unit price sum of **$81,950.00 (EIGHTY ONE THOUSAND NINE HUNDRED FIFTY DOLLARS AND NO CENTS).** In the event the amount of work is increased or decreased by **OWNER**, the contract sum shall be increased or decreased according to the unit price schedule set forth in the **CONTRACTOR'S** Proposal.

ARTICLE 3: PROGRESS PAYMENTS

The **OWNER** shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by **OWNER** upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of the end of each month. On or about the **15th day** of the **following month**, ninety **(90%)** percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the **CONTRACTOR** and approved or revised by the **Engineering Department** of the **OWNER** less the aggregate of previous payments, will be paid by **OWNER** to the **CONTRACTOR.**

ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a **Completion Affidavit** by the **CONTRACTOR** that the work is ready for final inspection and acceptance, the **Board of Public Works and Safety** will direct the **Engineering Department** of the **OWNER** to promptly make such inspection. When the **Engineering Department** finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the **Board of Public Works and Safety**, which shall issue a **final certificate** stating that the work provided for in this Contract has been completed and is accepted. Thereupon, **the entire balance** of the Contract sum shall be due and payable to the **CONTRACTOR**; provided only that **CONTRACTOR** shall first furnish **OWNER**, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid, and all required manpower utilization reports for this project have been submitted.

ARTICLE 5: WORKMEN'S COMPENSATION ACT

The **CONTRACTOR** will furnish immediately a certificate from the **Industrial Board of the State of Indiana**, that he has complied with the **Workmen's Compensation Act** in accordance with **Statutes of the State of Indiana** and **Ordinances of the City of Fort Wayne.**

Any judgment rendered against the **City of Fort Wayne** in any suits for Damages for injury to real or personal property, or for injury sustained by any person growing out of any act or doing of **CONTRACTOR**, or its agents, employees or workmen or any judgment of any court or award of any **Board of Arbitrators** or of the **Industrial Board of the State of Indiana** rendered against the **City of Fort Wayne** in any suit or claim arising under said **Workmen's Compensation** for accidental injuries or death suffered by his employees or the employees of any Subcontractor(s) in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said **CONTRACTOR**, shall be conclusive against **CONTRACTOR** as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that **CONTRACTOR** indemnify and hold harmless **OWNER** in the premises.

ARTICLE 6: NONDISCRIMINATION OF LABOR

The **CONTRACTOR** further agrees to be bound by **Section 15-13 (as amended)**, of the **Code of the City of Fort Wayne,** Indiana of 1974, passed by the **Common Council** of the **City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended)** on December 12th, 1978. The successful bidder shall file a **Manpower Utilization Report** for this project with the **Compliance Office** within ten **(10)** days after completion of construction or upon request of the **Office of Compliance.**

ARTICLE 7: PREVAILING WAGE SCALE

The **CONTRACTOR** agrees to pay, and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the **Statutes of the State of Indiana**, and the **Ordinances of the City of Fort Wayne** according to the applicable wage scale as included in the bid documents.

ARTICLE 8: COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

a. **Advertisement for Bids for Contract No. 91-08**
b. **Instructions to Bidders for Contract 91-08**
c. **Contractor's Proposal dated 4 SEPTEMBER 1991**
d. **Drawings**
e. **Supplemental Specifications for Contract No. 91-08**
f. **Workman's Compensation Act, Statutes of the State of Indiana and Ordinances of the City of Fort Wayne.**
g. **Non-Discrimination of Labor, General Ordinance No. G-34-78 (as amended).**
h. **Prevailing Wage Scale.**
i. **Performance and Guaranty Bond.**
j. **Labor and Material Payment Bond.**
k. **Comprehensive Liability Insurance Coverage.**
l. **Form 96.**

ARTICLE 9: GUARANTEE OF WORKMANSHIP

At the time of execution of this contract, the **CONTRACTOR** shall furnish a **Performance and Guaranty Bond** in favor of the **City of Fort Wayne** in the amount of the total value of the materials supplied and/or work performed under the terms of this contract. The said bond shall ensure the completion of the work covered hereunder and shall guarantee the materials and workmanship for a period of one (1) year following written acceptance of the work by the **OWNER.**

ARTICLE 10: INDEMNITY

CONTRACTOR shall furnish to **OWNER**, within ten (10) days of the date hereof, a certificate from an insurer acceptable to **OWNER** showing personal injury and property damage insurance, in force and issued in connection with the work to be performed under this Contract, in amounts satisfactory to **OWNER** and in accordance with the **Statutes of the State of Indiana.**

ARTICLE 11: ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the **CONTRACTOR** and the **OWNER** under the provisions of this Contract shall be subject to the decision of the **Director** of **Board of Public Works and Safety** of the **OWNER**, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases of work covered by this Contract will be permitted except on prior written authorization by the **Board of Public Works and Safety**.

ARTICLE 12: COMPLETION DATE

The **CONTRACTOR** agrees to complete the work specified in the contract within Sixty (60) **consecutive calendar days** after having been ordered by the **OWNER** to commence work under this contract.

ARTICLE 13: COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the **OWNER** by the **Mayor** and **Board of Public Works and Safety** of the **City of Fort Wayne, Indiana**, shall not be binding upon the **OWNER** unless and until the same shall have been ratified and approved by the **Common Council** of the **City of Fort Wayne, Indiana**, and should said **Common Council** fail to approve the same within ninety **(90)** days after the date hereof, then this Contract shall be and become wholly void.

ARTICLE 14:

This contract is governed by Laws of the State of Indiana.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CONTRACTOR: DEHNER CONSTRUCTION INC.

By: GREG DEHNER, PRESIDENT

CITY OF FORT WAYNE

By: _____
Paul Helmke, Mayor

BOARD OF PUBLIC WORKS AND SAFETY

By: _____
Charles E. Layton, Director
Public Works

By: _____
Katherine A. Carrier, Member

By: _____
Douglas M. Lehman, Director
Administration and Finance

ATTEST:

_____
Patricia Crick, Clerk

ACKNOWLEDGEMENT

STATE OF INDIANA)
SS:
COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this 23rd day of September, 1991, personally appeared the within named GREG DEHNER who being by me first duly sworn upon his oath says that he is the **PRESIDENT** of DEHNER CONSTRUCTION INC., and as such duly authorized to execute the foregoing instrument and acknowledged the same as the voluntary act and deed of DEHNER CONSTRUCTION, INC., for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

Pamela S. Manoloff
Notary Public

PAMELA S. MANOLOFF
Printed Name of Notary

My Commission Expires:

3-19-93

Resident of Allen **County.**

ACKNOWLEDGEMENT

STATE OF INDIANA)
SS:
COUNTY OF ALLEN)

BEFORE ME, a Notary Public, in and for said County and State, this 27 day of Sept., 1991, personally appeared the within named **Paul Helmke**, **Charles E. Layton**, **Katherine A. Carrier**, **Douglas M. Lehman**, and **Patricia Crick,** by me personally known, who being by me duly of sworn said that they are respectively the **Mayor** of the **City of Fort Wayne**, and **Director**, **Members**, and **Clerk** of the **Board of Public Works and Safety** of the **City of Fort Wayne, Indiana**, and that they signed said instrument on behalf of the City of Fort Wayne, Indiana, with full authority so to do and acknowledge said instrument to be in the voluntary act and deed of said **City** for the uses and purposes therein set forth.

IN WITNESS WHEREOF, hereunto subscribed my name, affixed my official seal.

Carolyn S. Newport
Notary Public

CAROLYN S. NEWPORT
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP. JUNE 21,1993

CAROLYN S. NEWPORT
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY

Printed Name of Notary

My Commission Expires: _____

Resident of _____ **County.**

Read the first time in full and on motion by Burns seconded by Edmonds, and duly adopted, read the second time title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock, ____.M.,E.S.T.

DATED: 10-8-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Burns seconded by Edmonds, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	8		1	
BRADBURY	✓			
BURNS	✓			
EDMONDS	✓			
GiaQUINTA	✓			
HENRY	✓			
LONG			✓	
REDD	✓			
SCHMIDT	✓			
TALARICO	✓			

DATED: 10-22-91

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ ~~(APPROPRIATION)~~ ~~(GENERAL)~~ (SPECIAL) ~~(ZONING MAP)~~ ORDINANCE ~~RESOLUTION~~ NO. S-252-91 on the 22nd day of October, 19 91,

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23rd day of October, 19 91, at the hour of 2:30 o'clock P.M.,E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 1st day of November, 19 91, at the hour of 11:30 o'clock A.M.,E.S.T.

PAUL HELMKE, MAYOR

Admn. Appr.

TITLE OF ORDINANCE: Contract 91-08

DEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Contract 91-08 is for the repair of Utility Cuts that were made by the Water Utility. Dehner Construction Inc., is the contractor. **PRIOR APPROVAL WAS RECEIVED 9/24/91.**

EFFECT OF PASSAGE: Repair of Utility Cuts made by Water Utility.

EFFECT OF NON PASSAGE: Streets would not be repaired.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) $81,950.00

ASSIGNED TO COMMITTEE: S-91-10-17

1

BILL NO. S-91-10-17

REPORT OF THE COMMITTEE ON CITY UTILITIES

PAUL M. BURNS, CHAIRMAN
CHARLES B. REDD, VICE CHAIRMAN
EDMONDS, LONG, SCHMIDT

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN (ORDINANCE) ~~(RESOLUTION)~~ approving CONTRACT 91-08, WATER MAINTENANCE CUTS between DEHNER CONSTRUCTION INC., and the City of Fort Wayne, Indiana, in connection with the Board of Works

HAVE HAD SAID (ORDINANCE) ~~(RESOLUTION)~~ UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) X ~~(RESOLUTION)~~

DO PASS	DO NOT PASS	ABSTAIN	NO REC

DATED: 10-22-91

Sandra E. Kennedy
City Clerk